



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 8664-99
5 August 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlistment member of the United States Navy, filed enclosure (a) with this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Ms. Humberd, Mr. Caron, and Mr. Ivins, reviewed Petitioner's allegations of error and injustice on 4 August 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (a) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Navy on 4 August 1986 for six years as a GMG3 (E-4). At the time of his reenlistment, he had completed more than four years of prior active service.

d. Petitioner was advanced to GMG2 (E-5) and served without incident until 20 April 1990 when a physical evaluation board (PEB) found him unfit by reason of physical disability due to a diagnoses of peripapillary subretinal neurovascular membrane and ocular histoplasmosis syndrome. This condition was assigned a disability rating of 10 percent. Petitioner was counseled and accepted the findings of the PEB.

e. Petitioner was advanced to GMG1 (E-6) on 16 June 1990. He was honorably discharged on 20 August 1990 and assigned an RE-4 reenlistment code. His military behavior and overall traits averages at the time of discharge were both 3.8.

f. Regulations authorize the assignment of an RE-3P or RE-4 reenlistment code to individuals discharged by reason of physical disability. An RE-3P reenlistment code means the individual was discharged by reason of physical disability and is eligible for reenlistment except for the disqualifying factor. An RE-4 reenlistment code means he is ineligible for reenlistment without prior approval from Commander, Naval Personnel Command.


CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner had no disciplinary actions during his period service and was promoted to GMG1 just two months prior to being discharged. Except for the enlisted performance evaluation submitted upon discharge, his overall performance was consistently rated excellent to outstanding. His separation evaluation rated him 3.4 overall and stated that he had become complacent and his initiative and attitude had deteriorated since his PEB. The Board did not find that Petitioner's complacency or decline in performance after being informed he was being involuntarily discharged because of physical disability warranted the assignment of an RE-4 reenlistment code. The Board believes the assignment of this restrictive code was unreasonable and concluded that it would be appropriate and just to assign an RE-3P reenlist code to correspond with the basis for his discharge.

RECOMMENDATION:

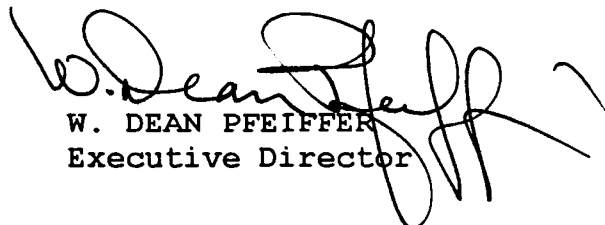
- a. That Petitioner's naval record be corrected by changing his RE-4 reenlistment code, assigned on 20 August 1990, to RE-3P. This should include the issuance of a new DD Form 214.
 - b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
 - c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director